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In re Application of :
MCLOUGHLIN, Michael P., et al. :
U.S. Application No.: 10/069,894 : DECISION
PCT No.: PCT/US01/16692 :
International Filing Date: 23 May 2001 :
Priority Date: 30 May 2000 :
Attorney's Docket No.: 1595-DARPA :
For: PORTABLE TIME-OF-FLIGHT MASS :
SPECTROMETER SYSTEM :
:

This decision is issued in response to the "Request (under 37 CFR 1.48(a)) To Correct Inventorship" filed 17 March 2003, treated herein as a request under 37 CFR 1.497(d) for correction of inventorship. Applicants will be charged the required processing fee for the request under 37 CFR 1.497(d).

BACKGROUND

On 23 May 2001, applicants filed international application PCT/US01/16692 which claimed a priority date of 30 May 2000 and which designated the United States. On 06 December 2001, the application was published.

On 13 December 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 30 November 2002.

On 27 February 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a declaration executed by the nine individual applicants identified in the published international application.

On 20 August 2002, the DO/EO/US mailed a Notification Of Missing Requirements indicating that a copy of the international application, including the request form, was required. The Notification stated that applicant was required to provide IB forms prior to publication.

On 21 January 2003, applicants filed a response to the Notification Of Missing Requirements, including a copy of the Request and a copy of the international application. The response also included a copy of a request filed by applicants with the International Bureau (IB) seeking to change the status of three persons listed in the Request (and the published international application) as applicants for all states but the US to applicant/inventors for the US only (the three were Charles W. Anderson, Wayne A. Bryden, and Scott A. Ecelberger).¹

On 17 March 2003, applicants filed the “Request (under 37 CFR 1.48(a)) To Correct Inventorship” considered herein under 37 CFR 1.497(d). The present request seeks to add Timothy J. Cornish as an inventor on the present application, and it was accompanied by a new declaration executed by the nine inventors in the international application and by Mr. Cornish.

DISCUSSION

A. Request To Correct Inventorship

In addition to the nine inventors of record in this international application, the declaration filed by applicants on 17 March 2003 identifies an additional inventor, Timothy J. Cornish.

Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d).

37 CFR 1.497(d) states:

- (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

¹ The application file contains a Form PCT/IB/306 confirming this status change with respect to Mr. Ecelberger, and the IB has confirmed that the status change has also been entered with respect to Mr. Bryden and Mr. Anderson.

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

Applicants' 17 March 2003 submission satisfies the requirements of 37 CFR 1.497(d). Accordingly, applicants' request is appropriately granted, and Timothy J. Cornish is added as an inventor on this application. Based on this addition, the declaration filed on 17 March 2003 is acceptable under 37 CFR 1.497.

CONCLUSION

The request under 37 CFR 1.497(d) to add Timothy J. Cornish as an inventor herein is **GRANTED**. Based on this addition, the declaration filed on 17 March 2003 (which includes Mr. Cornish) is accepted under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 17 March 2003.



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